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clearly established the fact that they do not permit the earning of a fair rate of return, such rates will be declared confiscatory, *Northern Pac. Ry. Co. v. Keyes*, 91 Fed. 47. A fortiori, therefore, should rates which have been shown by experience inadequate to cover operating expenses, be held to violate the constitutional prohibition, as in the present case. The Commission however, sought to avoid this by showing that the lines of complainant had been extended after the passing of the order into undeveloped territory. Plants unnecessarily large cannot be expected to be allowed to earn a return on the entire investment, *Boise City I. & L. Co. v. Clark*, 131 Fed. 415. It is noteworthy that the court distinguished such cases from the present case in that in this one the question was not whether any return should be allowed on such investment, but whether the road should be allowed to earn operating expenses on such portion.

CHARITIES—CHARITABLE BEQUEST.—A testator bequeathed \$5,000 to trustees in trust to erect a bronze and granite base for a flagstaff in a city park, the same to bear an inscription that it was in memory of testator's father. Upon a bill brought to construe the will it was held, that the bequest was not within any definition of a charitable use, nor a devotion of the money to charitable purposes, but a mere private trust, violative of the rule against perpetuities. *Morristown Trust Co. v. Mayor of Morristown*, (N. J. 1914) 91 Atl. 736.

In arriving at this conclusion the court adopts the definition of a charity as formulated by GRANT, J., in the leading case of *Jackson v. Phillips*, 96 Mass. 539. The principal case is undoubtedly correct in its decision. What is a charitable use would seem to be a question of little difficulty in the light of the well settled definitions previously established. However, testators often attempt to do strange things. Trusts that have been held valid as devoted to a charitable use vary from a gift to purchase a fire-engine for a town, *Magill v. Brown*, Brightly, 411, to one for the increase and encouragement of good servants, *Loscombe v. Winteringham*, 13 Beav. 87. Provisions for the erection of monuments over the testator's grave have been upheld as being for a humane purpose, *Ford v. Ford's Ex'r*, 91 Ky. 572; *Detmiller v. Hartman*, 37 N. J. Eq. 347; *McIlvain v. Hockaday*, 36 Tex. Civ. App. 1, but a provision directing all the income from the testator's estate to be used for the erection of bronze statues of himself and family, about the premises, was held not to be an educational or charitable bequest. *McCaig v. University of Glasgow* [1907] S. C. 231. A case seemingly in conflict with the preceding and the principal case is *Smith's Estate*, 181 Pa. 109, where the court upheld, as a good charitable use, a gift of \$500,000 to be used in erecting a memorial monument in a public park, inscribed with testator's name and adorned with statues of himself and others, on the ground that the monument was for the beautifying and adornment of the city as well as the elevation and refinement of the people.

CONSTITUTIONAL LAW—AUTHORITY OF PRESIDENT TO WITHDRAW MINERAL LANDS FROM ENTRY.—The President of the United States "in aid of proposed legislation" withdrew from entry 3,000,000 acres of oil land in 1909. In 1910